

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID GEORGE BORETTI,

Petitioner,

Case No. 06-CV-10805

HONORABLE AVERN COHN

v.

KENNETH McGINNIS,

Respondent.

/

**ORDER DENYING PETITIONER'S MOTION TO AMEND EITHER OF TWO  
JUDGMENTS ENTERED IN THE DISTRICT COURT**

I.

This is a habeas case under 28 U.S.C. § 2254. On February 28, 2006, the Court dismissed the petition on the grounds that subject matter jurisdiction was lacking because the sentences on the convictions being challenged in the habeas petition had expired. The Court also found that the petition did not relate back to a prior petition because the district court did not retain jurisdiction. Petitioner has now filed a motion to amend either of the two judgments entered in the district court. For the reasons that follow, the motion is **DENIED**.

II.

A motion to alter or amend judgment brought by a habeas petitioner under Fed. R. Civ. P. 59(e) may properly be analyzed as a motion for reconsideration brought under Local Rule 7.1 of the Eastern District of Michigan. See *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999). A motion for reconsideration may be granted only

if the movant demonstrates a palpable defect by which the court and the parties have been misled and show that correcting the defect will lead to a different disposition of the case.

III.

Here, petitioner has made a number arguments in support of his motion. However, the arguments present the same issues previously ruled upon by the Court in dismissing the petition. Petitioner has failed to establish a palpable defect or that a different disposition is warranted. Accordingly, there are no grounds for reconsideration.

**SO ORDERED.**

Dated: June 21, 2006

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 21, 2006, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager  
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